

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Krista Kano	Team: Team # 2	CCRB Case #: 201409085	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/09/2014 6:45 PM	Location of Incident: Brabant Street and Union Avenue	Precinct: 121	18 Mo. SOL 10/9/2015	EO SOL 10/9/2015	
Date/Time CV Reported Thu, 04/10/2014 8:56 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/10/2014 8:56 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Emmanuel Kwo	01403	944715	121 PCT
2. POM Omar Elsayed	06763	950376	121 PCT
3. SSA John Todaro	05234	903307	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA John Todaro	Abuse: Sgt. John Todaro participated in the stop of the car in which § 87(2)(b) was an occupant, § 87(2)(b) and § 87(2)(b) were occupants.	
B.SSA John Todaro	Abuse: Sgt. John Todaro frisked § 87(2)(b)	
C.SSA John Todaro	Abuse: Sgt. John Todaro searched § 87(2)(b)	
D.POM Omar Elsayed	Abuse: PO Omar Elsayed searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.POM Emmanuel Kwo	Abuse: PO Emmanuel Kwo searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On April 10, 2014, § 87(2)(b) called the CCRB to file a complaint, #201403407, regarding three incident dates (encl. 3A-3C). On September 4, 2014, this case was split to exclusively address the April 9, 2014 incident.

On April 9, 2014 at 6:45 p.m., § 87(2)(b) was driving with § 87(2)(b) and § 87(2)(b) when they were stopped by officers. There were no arrests or summons issued. The following allegations resulted:

- [illegible]

This case was not mediation eligible.

Results of Investigation

Civilian Statements

Complainant/ Victim: § 87(2)(b)

- § 87(2)(b) is a 5'6" tall, 160-pound black man with black hair and brown eyes. He was § 87(2)(b) years old at the time of the incident.
- § 87(2)(b)

CCRB Statement

On April 17, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 4D-4F)

On April 9, 2014 at about 6:45 p.m., § 87(2)(b) was the front passenger of a black 2012 Toyota Corolla parked across the street from his house at § 87(2)(b) in Staten Island.

§ 87(2)(b) drove. § 87(2)(b)'s cousin, sat behind § 87(2)(b)
sat behind § 87(2)(b)

§ 87(2)(b) drove from § 87(2)(b) to Brabant Street and did not make any moving violations. A turquoise Ford Fusion followed two cars behind. § 87(2)(b) turned right onto Union Avenue and the officers were directly behind her. She stopped the car.

Sgt. John Todaro, PO Emmanuel Kwo, and PO Elsayed exited the vehicle. See enclosures for officer descriptions. Sgt. Todaro, PO Kwo and PO Elsayed always worked together in a blue Impala, a black Impala or the turquoise Ford Fusion.

One of the officers told everyone to roll down the windows. Prior to the officers' approach, § 87(2)(b) did not make any sudden movements and his hands were on his lap. The only time § 87(2)(b) moved his hands was to roll down the windows.

Sgt. Todaro approached the rear passenger window and told § 87(2)(b) to step out of the car. § 87(2)(b) complied. § 87(2)(b) and § 87(2)(b) remained seated in the car.

Sgt. Todaro brought § 87(2)(b) to the back of the car, behind the bumper. Sgt. Todaro frisked § 87(2)(b). § 87(2)(b) did not see Sgt. Todaro enter § 87(2)(b)'s pockets.

PO Elsayed approached § 87(2)(b)'s window and asked for her name, where she was going, whether she lived nearby, where she worked, and if she had anything in the car. § 87(2)(b) provided her name, said she was going to the ferry, that she did not live nearby, that she was a § 87(2)(b), and that she did not have anything in the car.

Sgt. Todaro approached § 87(2)(b)'s window, asked what was going on and asked him to step out of the car. § 87(2)(b) exited the car and walked to the back. Sgt. Todaro told § 87(2)(b) to put his hands up and he did. Sgt. Todaro asked § 87(2)(b) if he had anything on him. § 87(2)(b) wore a black and blue-striped jacket and navy blue Adidas track pants. Sgt. Todaro frisked § 87(2)(b)'s back and told § 87(2)(b) to turn around. Sgt. Todaro frisked § 87(2)(b)'s torso and the front of his pants. Sgt. Todaro put his fingers in § 87(2)(b)'s collar and felt around the collar area.

Sgt. Todaro grabbed § 87(2)(b)'s pants by the fabric of the pockets and pulled them up. Sgt. Todaro put his thumb in the waistband of § 87(2)(b)'s boxers and felt around the waistband. Sgt. Todaro put his hands in § 87(2)(b)'s pants, over his boxers, and grabbed § 87(2)(b)'s testicles. § 87(2)(b) did not say anything. Sgt. Todaro pulled up the back of § 87(2)(b)'s boxers. § 87(2)(b) asked Sgt. Todaro what he was doing. Sgt. Todaro explained that he was pulling § 87(2)(b)'s boxers up. Sgt. Todaro went into § 87(2)(b)'s pants, over his boxers, and felt between § 87(2)(b)'s butt cheeks with a flattened palm. § 87(2)(b) described the actions as "swiping" and stated that Sgt. Todaro swiped a couple times before removing his hand.

§ 87(2)(b) spoke to PO Kwo under a tree around the corner. § 87(2)(b) remained in the car and spoke with PO Elsayed. § 87(2)(b) could not hear either conversation.

PO Kwo and PO Elsayed searched the car for ten to fifteen minutes. PO Elsayed searched the front two seats and PO Kwo searched the back seat. § 87(2)(b) did not hear either officer ask to search the car. The officers did not find anything in the car. They did not open the trunk. The items from the glove compartment and the center console were displaced when § 87(2)(b) returned to the car.

While PO Kwo and PO Elsayed searched the car, Sgt. Todaro stayed with § 87(2)(b) and § 87(2)(b). Sgt. Todaro told § 87(2)(b) to tell him the truth and said that he did not care about coke

or weed. Sgt. Todaro said that all he cared about was weapons. § 87(2)(b) did not respond. When PO Kwo and PO Elsayed finished searching the car, Sgt. Todaro told § 87(2)(b) to have a good day and the officers left.

Other Civilians Interviewed

On June 5, 2014, § 87(2)(b) was interviewed at § 87(2)(b) at Riker's Island. § 87(2)(b) stated that he was not present on April 9, 2014, but was present the next day on April 10, 2014 during another encounter with these officers (encl. 4M-4O).

Attempts to Contact Civilians

Between May 5, 2014 and August 26, 2014, several contact attempts were made to § 87(2)(b) who could not be reached. Between May 5, 2014 and August 25, 2014, several contact attempts were made to schedule an interview with § 87(2)(b) who failed to schedule an interview. A search of the New York City Department of Correction showed that § 87(2)(b) and § 87(2)(b) are not currently incarcerated.

NYPD Statements:

Subject Officer: PO EMMANUEL KWO

- *PO Kwo is a 6'2" tall, 200-pound black man with black hair and brown eyes. He was § 87(2)(b) years old at the time of the incident.*
- *On April 9, 2014, PO Kwo worked Anti-Crime from 12 p.m. to 8:35 p.m. with PO Elsayed. They were in plainclothes and were assigned to an unmarked car. Since the incident, PO Kwo has been promoted to sergeant within the 43rd Precinct.*

Memo book

PO Kwo had no memo book entries regarding this incident (encl. 5M-5N).

CCRB Statement

On October 15, 2014, PO Kwo was interviewed at the CCRB (encl. 5Q).

On April 9, 2014 around 6:45 p.m., PO Kwo and PO Elsayed observed a car run a stop sign on Brabant Avenue. They activated their lights and sirens and stopped the car, which stopped quickly. There were no other factors in stopping the car. PO Kwo and PO Elsayed approached the car. PO Kwo did not remember if he was the driver or the passenger and did not remember which side he approached.

A woman was the driver, and she was calm. There was another woman in the car as well as § 87(2)(b). At the time they stopped the car, PO Kwo did not know § 87(2)(b) was in the car. § 87(2)(b) appeared to recognize PO Kwo and PO Elsayed, but recognized PO Elsayed more. § 87(2)(b) was combative, but PO Kwo did not recall any statements he made.

PO Kwo requested the driver's license and registration. PO Kwo warned and admonished the driver and let her leave without a summons. PO Kwo did not recall if anyone was ordered out of the car. He did not recall if he or PO Elsayed frisked § 87(2)(b). Neither he nor PO Elsayed searched § 87(2)(b) or the car. Neither PO Kwo nor PO Elsayed stuck his hand in the back of § 87(2)(b)'s pants over his boxers. No summonses were issued and a stop and frisk report was not prepared because it was a traffic stop. The incident lasted about five minutes.

Additional Officers Interviewed

On October 2, 2014, Sgt. Todaro was interviewed at the CCRB (encl. 5E). On October 21, 2014, PO Elsayed was interviewed at the CCRB (encl. 5K). Neither Sgt. Todaro nor PO Elsayed had memo book entries regarding this incident (encl. 5G-5H, 5K). Neither officer had any recollection of this incident. A summary of the incident did not aid their recollection. Both officers denied interacting with § 87(2)(b) stopping the car, frisking § 87(2)(b) searching § 87(2)(b) and searching the car. Neither officer had any recollection of his whereabouts around 5 p.m. Both officers knew § 87(2)(b) and § 87(2)(b) from various previous interactions.

NYPD Documents

Event Log

None of the events pertain to this incident (encl. 6A-6C).

Handwritten Stop and Frisk Log

There were no stop and frisk reports prepared for § 87(2)(b) or § 87(2)(b) (encl. 6M).

MISD

There were no searches conducted for § 87(2)(b)'s name, address or date of birth (encl. 9H).

Roll Call

On April 9, 2014 Tour 3, PO Elsayed and PO Kwo were assigned to Anti-Crime from 12 p.m. to 8:35 p.m. Sgt. Todaro was the Anti-Crime sergeant from 11:55 a.m. to 8:39 p.m. (encl. 6N-6FF).

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have no filed a Notice of Claim as of September 16, 2014, over two months after the filing deadline, with regards to the incident.

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- § 87(2)(b)

Subject Officers CCRB History

- PO Elsayed has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. 2C-2D).
- PO Kwo has been a member for the service for seven years and there are two substantiated CCRB allegations against him (encl. 2B).
 - In case 201301424, the Board substantiated stop and frisk allegations and recommended charges. The case is currently assigned to the CCRB's Administrative Prosecuting Unit.
§ 87(4-b) § 87(2)(g)
- Sgt. Todaro has been a member of the service for 21 years and there are four substantiated CCRB allegations against him (encl. 2E-2G).
 - In case 200400822, the Board substantiated a retaliatory summons allegation and recommended charges. In June 2005, the NYPD issued instruction.

- In case 200603776, the Board substantiated question/stop, threat of arrest and frisk allegations and recommended charges. In September 2007, the NYPD did not issue any discipline as they were duplicate charges.

Conclusion

Identification of Subject Officers

§ 87(2)(b) identified PO Elsayed as a subject officer in another case, § 87(2)(b) PO Elsayed confirmed his interaction for that case. § 87(2)(b) stated that on April 9, 2014, PO Elsayed worked with a black man who matched PO Kwo's description and a white man who matched Sgt. Todaro's description. Sgt. Todaro, while he did not recall the incident, did confirm that during the time of the incident, he was working with PO Kwo and PO Elsayed in an unmarked teal Ford Fusion.

Allegations Not Pleaded

§ 87(2)(b), § 87(2)(g)

Investigative Findings and Recommendations

Allegation A—Abuse of Authority: Sgt. John Todaro participated in the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B—Abuse of Authority: Sgt. John Todaro frisked § 87(2)(b)

Allegation C—Abuse of Authority: Sgt. John Todaro searched § 87(2)(b)

Allegation D—Abuse of Authority: PO Omar Elsayed searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation E—Abuse of Authority: PO Emmanuel Kwo searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) alleged that PO Elsayed, PO Kwo and Sgt. Todaro stopped the car he was in with § 87(2)(b) and § 87(2)(b). He stated that § 87(2)(b) did not drive irregularly. Sgt. Todaro frisked and searched him and PO Elsayed and PO Kwo searched the car.

PO Kwo confirmed that he and PO Elsayed stopped the car because § 87(2)(b) ran a stop sign. PO Kwo did not see § 87(2)(b) in the car until he approached the vehicle. PO Kwo did not recall Sgt. Todaro being present for the incident. PO Kwo denied frisking § 87(2)(b) searching § 87(2)(b) and searching the vehicle, and denied seeing PO Elsayed do so. PO Elsayed and Sgt. Todaro had no recollection of the incident and did not recall interacting with § 87(2)(b) on this date. All officers acknowledged interacting with § 87(2)(b) previously.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

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Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date